



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 23, 1996

Mr. Scott A. Durfee
General Counsel
Office of the District Attorney
Harris County
201 Fannin, Suite 200
Houston, Texas 77002-1901

OR96-1916

Dear Mr. Durfee:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101367.

The Harris County District Attorney's Office (the "district attorney") received a request for a "copy of any reports written by any experts who have reviewed Dr. Elizabeth Johnson's DNA cases." You have submitted to this office a report, which you assert is responsive to the request. You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, 552.107, and 552.108 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

We first address your assertion that section 552.108 of the Government Code excepts most of the submitted information from required public disclosure. Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Since the submitted

¹We note that although you raised sections 552.103 and 552.107, as you did not explain how these exceptions applied to the requested information, we do not consider them. *See* Gov't Code § 552.301(b)(1); Open Records Decision No. 363 (1983).

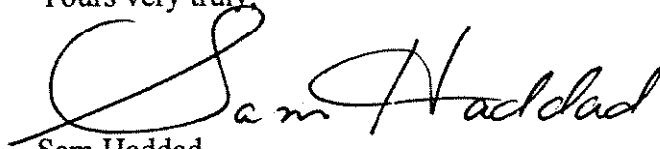
report at issue comes within the purview of section 552.108, we conclude that entire report may be withheld under this section.

We next address your assertion that section 552.101 of the Government Code excepts some information from required public disclosure. Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." As we resolve that you may withhold the submitted report in its entirety pursuant to section 552.108, we need not address the applicability of section 552.101 to the report.²

However, you assert that "the district attorney requests that the documents setting out the details of sexual offenses, such as written and recorded statements of victims and perpetrators, records of medical examinations, and police investigative reports recounting the details of offenses, be found unavailable in deference to the constitutional privacy rights of the victims of sexual offenses." It appears that you are raising this exception for records, other than the submitted report, which were neither requested by the requestor nor submitted to our office for review. Therefore, as it seems that the documents you seek to withhold are not responsive and outside the scope of the request, we will not address the exception you have raised for this other information. *See generally* Gov't Code §§ 552.301(b)(3)-303. However, if you receive a request for this information, the district attorney should reassert its arguments against disclosure at that time.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large initial "S" and "H".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/ch

Ref.: ID# 101367

Enclosures: Submitted report

²We agree that some of the information in the submitted report is confidential. *See* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense).

cc: Mr. Dick DeGuerin
DeGuerin & Dickson
1018 Preston Avenue, 7th Floor
Houston, Texas 77002
(w/o enclosures)